

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 15814 of 2007(G)

PETITIONER:

SMT. ELSAMMA ANTONY, W/O SCARIA,
RESIDING AT MANNOOR HOUSE, NADAVAYAL P.O.,
BATHERY THALUK, WAYANAD DISTRICT (HEADMISTRESS,
GOVT LP SCHOOL, NELLIAMBAM, VYTHIRI SUB DISTRICT,
WAYANAD DISTRICT.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)
SMT.A.A.GEETHA

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY THE
SECRETARY TO GOVERNMENT, EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DEPUTY DIRECTOR OF EDUCATION,
WAYANAD.
3. THE ASSISTANT EDUCATION OFFICER,
VYTHIRI, WAYANAD.
4. SRI.P.AHAMAD, PRIMARY SCHOOL TEACHER,
GOVT. L.P.SCHOOL, KUPPATHODE, MANANTHAVADDY
SUB DISTRICT, WAYANAD.
5. THE PARENT TEACHERS ASSOCIATION,
GOVERNMENT LP SCHOOL, NELLIYAMBAM,
REPRESENTED BY ITS PRESIDENT.

BY GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the order of transfer issued to the petitioner by the 2nd respondent dated 21.5.2007.

Ext.P2: True copy of the proceedings of the 2nd respondent by which the 4th respondent was promoted as H.M. And posted to G.L.P.S. Kuruvanthode dated 8.5.2007.

Ext.P3: True copy of the news item published in the Malayala Manorama daily dated 8.2.2007.

Ext.P4: True copy of the reply furnished by the petitioner to the 3rd respondent dated 19.2.2007.

Ext.P5: True copy of the request for transfer by the petitioner to the 2nd respondent dated 27.3.2007.

Ext.P6: True copy of the minutes of the PTA meeting dated 21.7.2006.

Ext.P7: True copy of the minutes of the staff meeting dated 14.2.2007.

RESPONDENT'S EXHIBITS:

Ext.R2(a): True copy of complaint

Ext.R2(b): True copy of reply of AEO dated 23.2.2007.

Ext.R2(c): True copy of application for transfer.

// True copy //

P.A. to Judge
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A.K.BASHEER, J.

W.P.(C)No.15814 OF 2007

Dated this the 27th day of June, 2007

JUDGMENT

Petitioner is now working as Headmistress in Government Lower Primary School, Nelliambam of Vythiri Educational Sub District in Wayanad district. She impugns Ext.P1 order of transfer dated May 21, 2007.

2. It is revealed from Ext.P1 order that the order of transfer has been issued in the light of strong objection raised by the District Panchayat President and office bearers of Parent Teachers Association against her continuance in the school. It is contended by the petitioner that Ext.P1 order is totally illegal and vitiated in as much as she had not been given any opportunity to be heard before the punitive order of transfer was passed. She places heavy reliance on Ext.P6 which is stated to be a true photocopy of the proceedings of the meeting of the Parent Teachers Association held on 21st July, 2006 and contends that the members of the association had no complaints against her.

3. The above contention in my view is apparently untenable. The complaint referred to in Ext.P1 order is of recent origin. Anyhow, petitioner has raised a specific contention that the President of the PTA has been antagonistic towards her and he had been making her life miserable. It is true that the Assistant Educational Officer had conducted an enquiry. A copy of the communication sent by him to respondent no.2, Deputy Director of Education is on record as Ext.R2(b). He recommended transfer of the petitioner apparently for the reason that the Parent Teachers Association took the stand that she had to be transferred. Significantly, the officer noted in the communication that so long as the present office bearers of PTA remained in office, continuance of the petitioner in the school as Headmistress may not be conducive for its smooth functioning. It is evidently on the basis of the above report that petitioner has been transferred.

4. Having heard learned counsel for the petitioner and learned Government Pleader and having perused the materials on record, I am of the view that petitioner has to be given an

opportunity to ventilate her grievance. She has to be heard with regard to the allegations made against her. She must be given notice with copies of the complaints, if any, so that she is able to controvert the charges levelled against her. The fact that a new set of office bearers is likely to be elected in the current academic year is also a factor which will have to be taken note of.

Anyhow, having heard learned counsel for the parties, I am of the view that respondent no.2 has to be directed to conduct an independent enquiry by himself and take a decision in the matter. Ordered accordingly. As indicated earlier, petitioner and all others including those mentioned in Ext.R2(b) report of the Assistant Educational Officer shall be afforded sufficient opportunity to be heard before any decision is taken. A final decision shall be taken by respondent no.2 as expeditiously as possible, at any rate, within four weeks from the date of receipt of a copy of this judgment. Till such a decision is taken, Ext.P1 order shall be kept in abeyance.

A.K.BASHEER, JUDGE

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